

HOUSE BILL No. 1962

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Skills 2016 worker training program. Reduces the unemployment tax rates by 10%. Establishes the skills 2016 training program to be funded by a 0.06% assessment upon wages and to be administered by the department of workforce development. Establishes the skills 2016 training fund to be used for the administration of the skills 2016 training program. Makes conforming amendments.

Effective: January 1, 2002.

Stilwell

January 17, 2001, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1962

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-10.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2002]:

4 **Chapter 10.5. Skills 2016 Training Program**

5 **Sec. 1. The skills 2016 training program is established for the**
6 **following purposes:**

7 (1) To improve manufacturing productivity levels in Indiana.

8 (2) To enable firms to become competitive by making workers
9 more productive through training.

10 (3) To create a competitive economy by creating and retaining
11 jobs.

12 (4) To encourage the increased training necessary because of
13 an aging workforce.

14 (5) To avoid potential payment of unemployment
15 compensation by providing workers with enhanced job skills.

16 (6) To ensure that the department has the proper technology
17 and training necessary to facilitate a changing workforce.

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1 **Sec. 2.** The skills 2016 training assessment is six hundredths
 2 percent (0.06%) to be assessed upon the previous year's taxable
 3 wages (as defined in IC 22-4-4-2) paid by all employers except
 4 those who have elected to make payments in lieu of contributions
 5 (as defined in IC 22-4-2-32).

6 **Sec. 3. (a)** Skills 2016 training assessments accrue and are
 7 payable by each employer under section 2 of this chapter for each
 8 calendar year in which the employer is subject to IC 22-4-10-1 with
 9 respect to wages for employment.

10 **(b)** Skills 2016 training assessments are due and payable to the
 11 department by each employer for the purposes set forth in section
 12 1 of this chapter and are not deductible, in whole or in part, from
 13 the wages of individuals in the service of the employer.

14 **(c)** Skills 2016 training assessments paid under this chapter:

15 **(1)** shall not be credited to the employer's experience account;
 16 and

17 **(2)** do not affect the computation of an employer's
 18 contribution rate under IC 22-4-11-2.

19 **Sec. 4.** The skills 2016 training assessment shall be reported in
 20 a manner prescribed by the commissioner.

21 **Sec. 5.** Delinquent or unpaid skills 2016 training assessments
 22 shall be collected in a manner prescribed by the commissioner.

23 **Sec. 6.** The skills 2016 training program is administered by the
 24 department of workforce development in a manner prescribed by
 25 the commissioner.

26 **Sec. 7.** The department shall deposit skills 2016 training
 27 assessments paid to the department under this chapter in the skills
 28 2016 training fund established by IC 22-4-24.5-1.

29 **Sec. 8. (a)** Skills 2016 assessments unpaid on the date on which
 30 they are due and payable bear interest at the rate of one percent
 31 (1%) per month or fraction of a month from and after that date
 32 until payment plus accrued interest is received by the department.

33 **(b)** A twenty-five dollar (\$25) penalty shall be assessed on any
 34 skills 2016 assessments that are unpaid on the date subsequent to
 35 the date on which they are due and payable.

36 **(c)** All penalty and interest collected on delinquent skills 2016
 37 assessments shall be deposited in the skills 2016 training fund
 38 established under IC 22-4-24.5.

39 **Sec. 9.** For each state fiscal year, the department shall prepare
 40 an annual report for the governor, the legislative council, and the
 41 board on the use of skills 2016 training funds by the department.
 42 The department shall include information concerning the grants

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made in the fiscal year, together with recommendations and additional information the commissioner considers appropriate.

SECTION 2. IC 22-4-11-3, AS AMENDED BY P.L.30-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) Except as provided in section 3.2 of this chapter, the applicable schedule of rates for the calendar year 1983 and thereafter shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) If the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules				
		A				
		B				
		C				
		D				
		E				



1	3.0		1.2 1.08	0.2 0.18	0.2 0.18	0.2 0.18	0.15
2	2.8	3.0	1.4 1.26	0.4 0.36	0.2 0.18	0.2 0.18	0.15
3	2.6	2.8	1.6 1.44	0.6 0.54	0.2 0.18	0.2 0.18	0.15
4	2.4	2.6	1.8 1.62	0.8 0.72	0.4 0.36	0.2 0.18	0.2
5	2.2	2.4	2.0 1.80	1.0 0.90	0.6 0.54	0.2 0.18	0.2
6	2.0	2.2	2.2 1.98	1.2 1.08	0.8 0.72	0.4 0.36	0.4
7	1.8	2.0	2.4 2.16	1.4 1.26	1.0 0.90	0.6 0.54	0.6
8	1.6	1.8	2.6 2.34	1.6 1.44	1.2 1.08	0.8 0.72	0.8
9	1.4	1.6	2.8 2.52	1.8 1.62	1.4 1.26	1.0 0.90	1.0
10	1.2	1.4	3.0 2.70	2.0 1.80	1.6 1.44	1.2 1.08	1.2
11	1.0	1.2	3.2 2.88	2.2 1.98	1.8 1.62	1.4 1.26	1.4
12	0.8	1.0	3.4 3.06	2.4 2.16	2.0 1.80	1.6 1.44	1.6
13	0.6	0.8	3.6 3.24	2.6 2.34	2.2 1.98	1.8 1.62	1.8
14	0.4	0.6	3.8 3.42	2.8 2.52	2.4 2.16	2.0 1.80	2.0
15	0.2	0.4	4.0 3.60	3.0 2.70	2.6 2.34	2.2 1.98	2.2
16	0.0	0.2	4.2 3.78	3.2 2.88	2.8 2.52	2.4 2.16	2.4

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As	But	Rate Schedules				
Much	Less	(%)				
As	Than	A	B	C	D	E
	1.5	4.5 4.05	4.4 3.96	4.3 3.87	4.2 3.78	3.6
	1.5	4.8 4.32	4.7 4.23	4.6 4.14	4.5 4.05	3.8
	3.0	5.1 4.59	5.0 4.50	4.9 4.41	4.8 4.32	4.1
	4.5	5.4 4.86	5.3 4.77	5.2 4.68	5.1 4.59	4.4
	6.0	5.7 5.40	5.6 5.40	5.5 5.40	5.4 5.40	5.4

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 3. IC 22-4-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce development.

(b) The department of workforce development may:

(1) Administer the unemployment insurance program, the



Wagner-Peyser program, the Job Training Partnership Act program, including a free public labor exchange, and related federal and state employment and training programs as directed by the governor.

(2) Formulate and implement an employment and training plan as required by the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(3) Coordinate activities with all state agencies and departments that either provide employment and training related services or operate appropriate resources or facilities, to maximize Indiana's efforts to provide employment opportunities for economically disadvantaged individuals, dislocated workers, and others with substantial barriers to employment.

(4) Apply for, receive, disburse, allocate, and account for all funds, grants, gifts, and contributions of money, property, labor, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government.

(5) Enter into agreements with the United States government that may be required as a condition of obtaining federal funds related to activities of the department.

(6) Enter into contracts or agreements and cooperate with local governmental units or corporations, including profit or nonprofit corporations, or combinations of units and corporations to carry out the duties of this agency imposed by this chapter, including contracts for the establishment and administration of employment and training offices and the delegation of its administrative, monitoring, and program responsibilities and duties set forth in this article. Before executing contracts described by this subdivision, the department shall give preferential consideration to using departmental personnel for the provision of services through local public employment and training offices. Contracting of Wagner-Peyser services is prohibited where state employees are ~~laid-off~~ **laid off** due to the diversion of Wagner-Peyser funds.

(7) Perform other services and activities that are specified in contracts for payments or reimbursement of the costs made with the Secretary of Labor or with any federal, state, or local public agency or administrative entity under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or private nonprofit organization.

(8) Enter into contracts or agreements and cooperate with entities that provide vocational education to carry out the duties imposed by this chapter.

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(c) The department of workforce development may not enter into contracts for the delivery of services to claimants or employers under the unemployment insurance program. The payment of unemployment compensation must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall distribute federal funds made available for employment training in accordance with:

(1) 29 U.S.C. 1501 et seq. and other applicable federal laws; and

(2) the plan prepared by the department under subsection (g)(1).

However, the Indiana commission on vocational and technical education within the department of workforce development shall distribute federal funds received under 29 U.S.C. 1533.

(g) In addition to the duties prescribed in subsections (a) through (f), the department of workforce development shall do the following:

(1) Implement to the best of its ability its employment training programs (as defined in IC 20-1-18.3-3), ~~and~~ the comprehensive vocational education program in Indiana developed under the long range plan under IC 20-1-18.3-10, **and the skills 2016 training program under IC 22-4-10.5.**

(2) Upon request of the budget director, prepare a legislative budget request for state and federal funds for employment training. The budget director shall determine the period to be covered by the budget request.

(3) Evaluate its programs according to criteria established by the Indiana commission on vocational and technical education within the department of workforce development under IC 20-1-18.3-13.

(4) Make or cause to be made studies of the needs for various types of programs that are related to employment training and authorized under the Job Training Partnership Act.

(5) Distribute state funds made available for employment training that have been appropriated by the general assembly in accordance with:

(A) the general assembly appropriation; and

(B) the plan prepared by the department under subdivision (1).

SECTION 4. IC 22-4-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. The department

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of workforce development established under IC 22-4.1-2-1 shall administer job training and placement services, **the skills 2016 training program established by IC 22-4-10.5-1**, and unemployment insurance.

SECTION 5. IC 22-4-19-6, AS AMENDED BY P.L.235-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

- (1) open to inspection; and
- (2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The commissioner, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsection (d), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax, **the skills 2016 assessment under IC 22-4-10.5-2**, or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The commissioner may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The commissioner may release the following information:

- (1) Summary statistical data may be released to the public.
- (2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:

- (A) The purpose of conducting a survey.
- (B) The purpose of aiding the officers or employees of the department of commerce in providing economic development assistance through program development, research, or other

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methods.

(C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The commissioner may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), or (e); or

(2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter;

commits a Class B misdemeanor.

(g) An employee of the department of commerce or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.

SECTION 6. IC 22-4-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or

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any other person having possession of the records thereof, shall fail or refuse upon demand by the board, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report **or the skills 2016 training assessment under IC 22-4-10.5-2**, or for the purpose of making a report as required by this article where none has been made, then and in that event the board, the review board, or **the** administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

SECTION 7. IC 22-4-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 9. If any employing unit fails to make any payroll report required by this article, the commissioner shall give written notice by mail to the employing unit to make and file the report within ten (10) days from the date of the notice. If the employing unit, by its proper members, officers, or agents, fails or refuses to make and file the report within such time, the report shall be made by the department from the best information available, and the amount of contribution **and skills 2016 training assessment** due shall be computed thereon and the report shall be prima facie correct for the purposes of this article.

SECTION 8. IC 22-4-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) Whenever the commissioner shall consider any account or claim for contributions **and skills 2016 training assessments under IC 22-4-10.5-2** against an employer, and any penalty or interest due thereon, or any part thereof, to be uncollectible, written notification containing appropriate information shall be furnished to the attorney general by the commissioner setting forth the reasons therefor and the extent to which collection proceedings have been taken. The attorney general may review such notice and may undertake additional investigation as to the facts relating thereto, and shall thereupon certify to the commissioner an opinion as to the collectibility of such account or claim. If the attorney general consents to the cancellation of such claim for delinquent contributions **and skills 2016 training assessments** and any interest or penalty due thereon, the board may then cancel all or any



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1 part of such claim.

2 (b) In addition to the procedure for cancellation of claims for
3 delinquent contributions **and skills 2016 training assessments** set out
4 in subsection (a), the board may cancel all or any part of a claim for
5 delinquent contributions **and skills 2016 training assessments** against
6 an employer if all of the following conditions are met:

7 (1) The employer's account has been delinquent for at least seven
8 (7) years.

9 (2) The commissioner has determined that the account is
10 uncollectible and has recommended that the board cancel the
11 claim for delinquent contributions **and skills 2016 training**
12 **assessments**.

13 (c) When any such claim or any part thereof is cancelled by the
14 board, there shall be placed in the files and records of the department,
15 in the appropriate place for the same, a statement of the amount of
16 contributions, **skills 2016 training assessments**, and any interest or
17 penalty due thereon, and the action of the board taken with relation
18 thereto, together with the reasons therefor.

19 SECTION 9. IC 22-4-24.5 IS ADDED TO THE INDIANA CODE
20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
21 JANUARY 1, 2002]:

22 **Chapter 24.5. Skills 2016 Training Fund**

23 **Sec. 1. (a) The skills 2016 training fund is established to do the**
24 **following:**

25 (1) Administer the costs of the skills 2016 training program
26 established by IC 22-4-10.5-1.

27 (2) Undertake any program or activity that furthers the
28 purposes of IC 22-4-10.5.

29 (3) Refund skills 2016 training assessments erroneously
30 collected and deposited in the fund.

31 (b) The fund shall be administered by the commissioner.

32 (c) The expenses of administering the fund shall be paid from
33 money in the fund.

34 (d) The treasurer of state shall invest the money in the fund not
35 currently needed to meet the obligations of the fund in the same
36 manner as other public money may be invested. Interest that
37 accrues from these investments shall be deposited in the fund.

38 (e) Money in the fund at the end of a state fiscal year does not
39 revert to the state general fund.

40 (f) The fund consists of the following:

41 (1) Assessments deposited in the fund under IC 22-4-10.5.

42 (2) Earnings acquired through the use of money belonging to

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the fund.

(3) Money received from the fund from any other source.

(4) Interest earned from money in the fund.

(5) Interest and penalties collected under IC 22-4-10.5-8.

(g) All money deposited or paid into the fund is:

(1) appropriated;

(2) made available to the department; and

(3) expended by the commissioner for the administration of this chapter and for no other purpose.

(h) Any balance in the fund does not lapse but is available continuously to the department for expenditures consistent with this chapter.

SECTION 10. IC 22-4-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. In addition to all other powers granted to the commissioner by this article, the commissioner or the commissioner's ~~duly~~ authorized representatives shall have the power to make assessments against any employing unit which fails to pay contributions, interest, **skills 2016 training assessments under IC 22-4-10.5-2**, or penalties as required by this article, or for additional contributions **and skills 2016 training assessments** due and unpaid, which assessment ~~shall be deemed is~~ **considered** prima facie correct. Such assessments shall consist of contributions, **skills 2016 training assessments under IC 22-4-10.5-2**, and any interest or penalties which may be due by reason of section 1 of this chapter, **or the skills 2016 training assessment and interest due under IC 22-4-10.5**. Such assessment must be made not later than four (4) calendar years subsequent to the date that said contributions, **skills 2016 training assessments**, interest, or penalties would have become due, except that this limitation shall not apply to any contributions, **skills 2016 training assessments**, interest, or penalties which should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit.

SECTION 11. IC 22-4-29-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 12. The liability for any contributions, **skills 2016 training assessments**, interest, penalties, and damages imposed by this chapter, or costs incidental to execution of warrants, shall not be subject to any of the provisions of the exemption laws of the state of Indiana for the relief of debtors.

SECTION 12. IC 22-4-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. No injunction to restrain or delay the collection of any contributions, **skills 2016**



1 **training assessments under IC 22-4-10.5-2**, or other amounts claimed
 2 to be due under the provisions of this article shall be issued by any
 3 court.

4 SECTION 13. IC 22-4-32-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. All matters
 6 pertaining to:

- 7 (1) the assessment of contributions, penalties, and interest;
- 8 (2) which accounts, if any, benefits paid, or finally ordered to be
 9 paid, should be charged;
- 10 (3) successorships, and related matters arising therefrom,
 11 including but not limited to:

12 (A) the transfer of accounts; and

13 (B) the determination of rates of contribution; and

- 14 (4) claims for refunds of contributions, **skills 2016 training**
 15 **assessments**, or adjustments thereon in connection with
 16 subsequent contribution payments **and skills 2016 training**
 17 **assessments**;

18 shall be heard by a liability administrative law judge upon proper
 19 application for such hearing.

20 SECTION 14. IC 22-4-32-16 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 16. In the event
 22 of any distribution of any employer's assets pursuant to an order of any
 23 court under the laws of this state including but not necessarily limited
 24 to any receivership, assignment for benefit of creditors, adjudicated
 25 insolvency, composition or similar proceeding, contributions **and skills**
 26 **2016 training assessments under IC 22-4-10.5-2** then or thereafter
 27 due shall be paid in full prior to all other claims except claims for
 28 remuneration.

29 SECTION 15. IC 22-4-32-17 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 17. No final
 31 report or act of any executor, administrator, receiver, other fiduciary,
 32 or other officer engaged in administering the assets of any employer
 33 subject to the payment of contributions under this article and acting
 34 under the authority and supervision of any court shall be allowed or
 35 approved by the court unless such report or account shows and the
 36 court finds that all contributions, interest, **skills 2016 training**
 37 **assessments under IC 22-4-10.5-2**, and penalties imposed by this
 38 article have been paid pursuant to this section, and that all
 39 contributions **and skills 2016 training assessments** which may
 40 become due under this article are secured by bond or deposit.

41 SECTION 16. IC 22-4-32-18 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 18. To the end



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that the purposes of this article may be effectively enforced and administered, it is the declared intention of the general assembly that in all cases of legal distributions and dissolutions the commissioner shall have actual notice before any fiduciary administering the affairs of an employer subject to the payment of contributions **and skills 2016 training assessments** under this article may file the fiduciary's final report with the court under whose authority and supervision such fiduciary acts. From and after April 1, 1947, no such final report shall be filed unless a copy thereof has been served upon the commissioner by mailing a copy thereof by registered mail to the commissioner at the commissioner's office in Indianapolis at least ten (10) days prior to the filing of the same with the court. Such final report shall contain a statement that a copy thereof was served in the manner provided in this section upon the commissioner, and before such final report may be approved by the court there shall be filed in said cause a certificate from the commissioner that this section has been fully complied with in the administration of the affairs of said employer. In the event that the commissioner shall not have been served with a copy of the final report as provided in this section and the fiduciary or other officer of the court administering the affairs of any such employer shall have been discharged and the fiduciary's or other officer's final report approved, the commissioner may at any time within one (1) year from the date upon which such final report was approved file a petition with the court alleging that there was not full compliance with this section and the court, upon being satisfied that the commissioner was not fully advised of the proceedings relative to the filing and approval of the final report as provided in this section, shall set aside its approval of said final report with the result that the proceedings shall be reinstated as though no final report had been filed in the first instance and shall proceed from that point in the manner provided by law and not inconsistent with the provisions of this section.

SECTION 17. IC 22-4-32-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 19. (a) At any time within four (4) years after the date upon which any contributions, **skills 2016 training assessments under IC 22-4-10.5-2**, or interest thereon were paid, an employing unit which has paid such contributions, **skills 2016 training assessments**, or interest thereon may make application for a refund of such contributions, **skills 2016 training assessments**, or an adjustment thereon in connection with subsequent contribution payments **or skills 2016 training assessments**. The commissioner shall thereupon determine whether or not such contribution **or skills 2016 training assessment**, or interest

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or any portion thereof was erroneously paid or wrongfully assessed and notify the employing unit in writing of its decision.

(b) Such decision shall constitute the initial determination referred to in section 4 of this chapter and shall be subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) The commissioner may grant such application in whole or in part and may allow the employing unit to make an adjustment thereof without interest in connection with subsequent contribution payments **or skills 2016 training assessments**. If such adjustment cannot be made, the commissioner may refund such amounts, without interest, from the fund. For like cause and within the same period, adjustments or refund may be made on the commissioner's own initiative. Any adjustments or refunds of interest or penalties collected **for contributions due under IC 22-4-10-1** shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. **Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under IC 22-4-10.5-2 shall be charged to and paid from the skills 2016 training fund established by IC 22-4-24.5-1.**

(d) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 18. IC 22-4-32-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 20. The contributions, penalties, **skills 2016 training assessments under IC 22-4-10.5-2**, and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the employer to and for the benefit of the fund and the employment and training services administration fund.

SECTION 19. IC 22-4-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 23. (a) As used in this section:

(1) "Dissolution" refers to dissolution of a corporation under IC 23-1-45 through IC 23-1-48.

(2) "Liquidation" means the operation or act of winding up a corporation's affairs, when normal business activities have ceased, by settling its debts and realizing upon and distributing its assets.

(3) "Withdrawal" refers to the withdrawal of a foreign corporation from Indiana under IC 23-1-50.

(b) The officers and directors of a corporation effecting dissolution, liquidation, or withdrawal shall do the following:



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(1) File all necessary documents with the department in a timely manner as required by this article.

(2) Make all payments of contributions **and skills 2016 training assessments under IC 22-4-10.5-2** to the department in a timely manner as required by this article.

(3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require information concerning:

(A) the corporation's assets;

(B) the corporation's liabilities;

(C) details of the plan or resolution;

(D) the names and addresses of corporate officers, directors, and shareholders;

(E) a copy of the minutes of the shareholders' meeting at which the plan or resolution was formally adopted; and

(F) such other information as the board may require.

The commissioner may accept, in lieu of the department's form of notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the form of notification with the department, the corporate officers and directors remain personally liable, subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate assets in violation of the interests of the state. An officer or director held liable for an unlawful distribution under this subsection is entitled to contribution:

(1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and

(2) from each shareholder for the amount the shareholder accepted.

(d) The corporation's officers' and directors' personal liability includes all contributions, **skills 2016 training assessments**, penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions **and skills 2016 training assessments** may be imposed on the corporate officers and directors for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(e) If the department fails to begin a collection action against a corporate officer or director within one (1) year after the filing of a

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completed form of notification with the department, the personal liability of the corporate officer or director expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation.

(f) In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders in violation of the interests of the state. The election to pursue one (1) remedy does not foreclose the state's option to pursue other legal remedies.

(g) The department may issue a clearance to a corporation effecting dissolution, liquidation, or withdrawal if:

- (1) the officers and directors of the corporation have met the requirements of subsection (b); and
- (2) request for the clearance is made in writing by the officers and directors of the corporation within thirty (30) days after the filing of the form of notification with the department.

(h) The issuance of a clearance by the department under subsection (g) releases the officers and directors from personal liability under this section.

SECTION 20. IC 22-4-32-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to:

- (1) the assessment of contributions, **skills 2016 training assessments under IC 22-4-10.5-2**, penalties, and interest;
- (2) the transfer of charges from an employer's account;
- (3) successorships and related matters arising from successorships;
- (4) claims for refunds and adjustments;
- (5) decisions; and
- (6) notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

- (1) The date on which the document is delivered to the appellate division or review board.

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(2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

SECTION 21. IC 22-4-33-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. Except as provided in IC 22-4-39, any agreement by an individual to waive, release or commute his rights to benefits or any other rights under this article is void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under this article **or skills 2016 training assessments under IC 22-4-10.5-2** from the employer is void. No employer may make or require or accept any deduction from the remuneration of individuals in his employ to finance the employer's contributions **or skills 2016 training assessments under IC 22-4-10.5-2** required from him, or require or accept any waiver by any individual in his employ of any right under this article.

SECTION 22. [EFFECTIVE JANUARY 1, 2002] **(a) For calendar year 2002, the skills 2016 assessment as set forth in IC 22-4-10.5-2, as added by this act, shall be based on the taxable wages earned in calendar year 2001.**

(b) This SECTION expires January 1, 2004.

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